

## **REMARKS**

### **Status**

Claims 1-53 are currently pending in the application. The present amendment does not add or cancel any claims. Accordingly, it is claims 1-53 which are at issue.

### **The Rejection**

Claims 1, 2, 5, 6, 8, 11-20, 22-26, 28, 30-37, 44, 45, 47 and 48 were rejected under 35 U.S.C. §102(b) as being anticipated by Miele (DE 197 18 027). Claims 50-53 were rejected under 35 U.S.C. §102(b) as being anticipated by Lehe et al. (US 5,427,498). Claim 27 was rejected under 35 U.S.C. §103(a) as being unpatentable over Miele. In addition, claims 3, 4, 7, 9, 10, 21, 29, 38-43 and 46 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant would like to thank the Examiner for the search and the Office Action.

### **Remarks Directed to the Rejection of the Claims in View of Miele**

The Office Action rejected most of the claims in light of Miele which relates to a discharge pump for washing/dishwashing machines. Applicant would like to make of record that Miele was cited during the corresponding international phase of the above application. In particular, the German language application of Miele was previously considered by the EPO Examiner when composing the International Preliminary Report on Patentability (IPRP). In addition, all of the claims considered for the IPRP were found to be novel and inventive as Miele fails to disclose a number of features of the present invention as discussed below.

Miele discloses a washing machine discharge pump with a pump housing (9) and a rotor housing (1) which can be fastened together with a bayonet fitting (12a, 12b). The rotor housing

(1) comprises a sleeve-shaped main body (3) and a bearing plate (4). The Examiner in this instance appears to have interpreted the bearing plate (4) of the rotor housing (1) as a pump insert according to the present invention. However, Applicant respectfully submits that the rotor housing (1), including the bearing plate (4), is not an insert. The rotor housing forms the pump and cannot be considered as a pump insert. The rotor housing (1) is also not an insert located within the pump housing (9) as described in claim 1 of the present application. Were the device of Miele to be considered analogous to the present invention, then the skilled person would compare the bearing plate portion (4) of the rotor housing (1) of Miele to the closure plate (148) of the present invention. The Examiner also appears to have interpreted the seal portion (13) of the rotor housing (1) as a pump casing closure element according to the present invention. The skilled person would not consider the seal portion (13) of the rotor housing (1) of Miele as a pump casing closure element, particularly in the context of the present application. The present application consistently attributes the pump casing closure element with particular mechanical properties, such as those disclosed on page 4, line 32 to page 5, line 9. Pump casing sealing arrangements distinct herefrom are disclosed directly thereafter on page 4, lines 10 to 19. A flexible seal portion (13) cannot be considered as such a closure.

Nonetheless, the Applicant has amended the claims to define the pump casing closure element of claim 1 as a pump casing closure plate. Support for this amendment may be found in the description in at least page 4, line 30 to page 5, line 2. Where the Examiner has construed the seal portion (13) of Miele as a pump casing closure element, the seal portion (13) cannot be considered as a plate. The seal portion (13) is an elastomer integrally molded with the rotor housing (1) and does not possess the geometrical nor mechanical properties of a plate, in particular a pump casing closure plate.

Independent method claim 36 has been amended similarly. However it should also be noted that the seal portion (13) of Miele already forms part of the rotor housing (1) and cannot be located stepwise between the casing (9) and the rotor housing (1); even when the rotor housing (1) is construed as a pump insert. For this reason also, Applicant respectfully submits that amended claim 36 is novel and inventive over Miele.

Additionally, the Examiner has indicated that Miele anticipates claim 2. However, where the Examiner appears to have construed the seal portion (13) as a pump casing closure element and the bearing plate (4) as a pump insert, the bearing plate (4) is not adapted to be secured against a portion of the seal portion (13). Rather, both the seal portion (13) and the bearing plate (4) form integral parts of the same component: the rotor housing (1). Similarly, when construing the seal portion (13) as a closure element, claim 6 cannot be considered as anticipated since the seal portion (13) by definition in Miele already forms part of the rotor housing (1) and cannot therefore be positioned between itself, which the Examiner has also construed as being a pump insert, and any other object, such as the pump casing. In any event, all of the claims dependent on claim 1 or 36 are novel and inventive by virtue of the novelty and inventiveness of these respective independent claims.

The Examiner has rejected independent claim 50 and dependent claims 51 to 53 on the basis of US 5,427,498 (Lehe). However, Applicant respectfully asserts that Lehe fails to disclose a pump insert having an inner surface which in use defines a portion of a pump volute, as described in claim 50 of the present application. The Examiner has indicated that he considers the additional part (34) of Figures 15 and 16 of Lehe as being such a pump insert. However, the bellows (29) of Figures 15 and 16 is mounted to the inner surface of the additional part (34) providing a seal (column 13, lines 11 to 13) and preventing the inner surface of the additional

part (34) from defining a portion of the pump volute. Dependent claim 51 differs further from the embodiment of Figures 15 and 16 of Lehe in that the impeller (5) is located between the additional part (34) and the suction pipe (3). For these reasons at least, claims 50 to 53 are allowable over Lehe.

### **Conclusion**

In view of the amendments and remarks presented herein, Applicant respectfully submits that all claims are now in condition for allowance and thus requests that the rejection of the claims be withdrawn and the application moved towards allowance. Any questions, comments, or suggestions the Examiner may have which would place the application in still better condition for allowance should be directed to the undersigned attorney

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 07-1180.

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Respectfully submitted,

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